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Plaintiff Vasudevan Software, Inc.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

VASUDEVAN SOFTWARE, INC.,

Plaintiff,

vs.

TIBCO SOFTWARE INC.,

Defendant.

Case No. 3:11-06638-RS-PSG

JOINT FILING OF VSI'S STIPULATION
 OF NON-INFRINGEMENT

Hon. Richard Seeborg

WHEREAS, Plaintiff Vasudevan Software, Inc. ("VSi") accuses Defendant TIBCO Software Inc. ("TIBCO") of infringing U.S. Patent No. 7,167,864 ("the '864 Patent");

WHEREAS TIBCO denies infringement of the '864 Patent;

WHEREAS the term "disparate [] databases" appears in each asserted claim of the '864 Patent;

WHEREAS on September 19, 2012, the Court issued its Claim Construction Order (Dkt. No. 102) construing the term "disparate [] databases" to mean "databases having an absence of

1 compatible keys or record identifier columns of similar value or format in the schemas or
2 structures that would otherwise enable linking data”;

3 WHEREAS on September 19, 2013, the Court issued its Claim Construction Clarification
4 Order (Dkt. No. 235) holding that “the construction of “Disparate [] databases” as “Databases
5 having an absence of compatible keys or record identifier columns of similar value or format in
6 the schemas or structures that would otherwise enable linking data” is clarified to read “databases
7 having an absence of compatible keys and an absence of record identifier columns of similar
8 value and an absence of record identifier columns of similar format in the schemas or structures
9 that would otherwise enable linking data”;

10 WHEREAS VSi is prepared to stipulate to non-infringement in light of the Court’s
11 clarified construction of “disparate [] databases” so VSi may seek review of the construction on
12 appeal;

13 WHEREAS the Court instructed the parties to file said stipulation jointly (Dkt. No. 237);

14 WHEREAS TIBCO maintains its positions that (1) TIBCO does not infringe the ‘864
15 Patent under any construction of the term “disparate [] databases”; (2) TIBCO additionally does
16 not infringe the ‘864 Patent for at least the reasons stated in TIBCO’s pending motion for
17 summary judgment of non-infringement (Dkt. No. 167); and (3) the ‘864 Patent is invalid for at
18 least the reasons set forth in TIBCO’s various pending motions for summary judgment of
19 invalidity (Dkt. Nos. 127, 155, and 160); and

20 WHEREAS TIBCO does not oppose VSi’s stipulation of non-infringement.

21 NOW, THEREFORE, IT IS HEREBY STIPULATED by VSi that, based on the Court’s
22 construction of “disparate [] databases,” as clarified by the Court, TIBCO’s accused products and
23 services do not infringe the asserted claims of the ‘864 Patent.

24
25 Dated: October 16, 2013

SUSMAN GODFREY LLP

26 By: /s/ Eric Enger

27 Brooke A. M. Taylor

28 Lead Attorney

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Dated: October 16, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on this 16st day of October, 2013, a true and correct copy of the foregoing document was served on all parties via CM/ECF and/or email to counsel.

/s/ Eric Enger

Eric Enger

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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3 DATED: _____
4 [Hon. Richard Seeborg]
5 United States District Court Judge
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